

Our

# 10 Top Tips

regarding

# Lasting Powers of Attorney (LPA)

eric  
robinson  
solicitors





Thank you for all your help, support and clarification over the last couple of months. You have lifted a weight off my shoulders.



Very pleased with the service I received and would recommend to others.



I would like to take this opportunity to thank you for your helpful assistance in setting up this Power of Attorney.



I have been very pleased with the way all matters have been handled.



01



## What is a Lasting Power of Attorney (LPA)?

None of us like to think that, at some point in our lives, we may become unable to make decisions about ourselves, for ourselves. But unfortunately, sometimes that is the reality.

An LPA is a legal document which can be put in place now, appointing someone (an “attorney”) to look after your finances and your welfare should you begin to lack the mental capacity to do so. You might not need to call on the LPA, but it can be reassuring to know that it is there.

“Look after your finances and your welfare.”

02

## Must I appoint family members to be my Attorney?

It may go against the grain, but don’t assume that family members will always be the ones to step in when things become difficult for you.

If you don’t make an LPA there is no guarantee that, if you become mentally incapable in the future, your family or those close to you would be able to make decisions about your assets or future care. The Court of Protection would decide what should happen if there was a conflict.

03

## Are there different types of Lasting Powers of Attorney (LPA)?

There are two. The first covers property and financial affairs. Your appointed attorney or attorneys can make a range of decisions about your home, your income and your assets. Should you sell your property? Are your tax affairs in order? Are you claiming the right

benefits? These are all things which can be looked after on your behalf.

The second type of LPA is to do with your health and care decisions. An attorney can decide where you should live, they can give consent for or refuse medical treatment on your behalf, and they will consider your day-to-day care including diet and dress.

04

## When should I make a Lasting Power of Attorney (LPA)?

There’s no time like the present. A valid LPA can only be made by a mentally capable person: someone who is currently able to make decisions on their own behalf.

If you have lost the mental capacity to deal with your affairs then you can’t make an LPA. In that situation, a family member or another interested party, for example social services, would need to apply to the court for a Deputyship Order. That takes time and can be expensive and, perhaps most significantly, leaves no one appointed to look after your affairs in the meantime, and the Deputyship Order may not necessarily be for someone you would have chosen.



05

## Who should I appoint to be my Attorney?

The attorney is given a great deal of power over some of the most important decisions about you. Appoint someone you can trust to act in your best interests and to follow the principals and procedures associated with the role of attorney. It helps if that person already has some understanding of what they may be required to do.

You may wish to appoint a family member or somebody who is close to you. If you don't feel that you know anyone suitable, then it is a good idea to appoint an experienced professional. The Partners at Eric Robinson Solicitors would be more than happy to act on your behalf in those circumstances for property and financial LPAs.

06

## Can I appoint more than one Attorney?

You can appoint more than one attorney. It is worth thinking carefully about the detail of this; do you want them to act jointly or jointly and severally, or jointly in some circumstances and severally in others?

If you appoint your attorneys to act jointly, then it means they have to act together in all decisions. If you appoint them jointly and severally then they can act alone or together in those decisions and therefore the decision-making can be more flexible.

It is also possible to appoint a substitute attorney to cover situations where an attorney dies or refuses to act.

You can also add restrictions or guidance so your attorneys are clear about your wishes (i.e. your care, where you live etc) in case you are unable to tell them yourself. Whereas if you do not make an LPA, the Deputy under a Deputyship Order may not know what you would have wanted.

07

## Do I need independent advice when entering into a Lasting Power of Attorney (LPA)?

An LPA cannot come into being until an independent third party signs a certificate confirming that they have explained the purpose and scope of the LPA to you. There must have been no undue pressure or force involved in the decision to make the LPA, and the Certificate Provider also has to confirm that there is no other reason why the LPA ought not to be created.

Specialist lawyers at Eric Robinson Solicitors can act as your Certificate Provider.





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## Is it a good idea to activate your Lasting Power of Attorney (LPA) straightaway?

The LPA must be registered with the Office of the Public Guardian before it can be used. Once registered, the LPA is active. The property and financial affairs LPA can be used whilst you still have mental capacity (unless it is specified that it cannot). But a health and care decisions LPA can be only used when you no longer have capacity. The registration process can take approximately three months and so most people prefer to make and register their LPA immediately. It means that if they lose their mental capacity, they don't have to wait for the document to be formalised and activated.

Eric Robinson Solicitors will be able to deal with the registration on your behalf.

09

## Is it sensible to have a Lasting Power of Attorney (LPA)?

There may be nothing wrong with your mental health now. Sadly, that could change.

Making an LPA is money well spent because the alternative is expensive and time consuming. If you become mentally incapable and no attorney has been appointed, relatives or some interested parties would have to apply to the Court of Protection for a Deputyship Order. That means asking the Court to appoint a "Deputy" to make decisions on your behalf. The application requires a doctor's certificate, a mass of paperwork and a court hearing.

If you make an LPA while you have mental capacity then you are ensuring that full provision is made for the future.

**"Think about the consequential effects."**



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## How much does a Lasting Power of Attorney (LPA) cost?

The cost of a Lasting Power of Attorney depends on whether you wish to make a property and financial affairs Lasting Power of Attorney or a health and care decisions Lasting Power of Attorney or both. If you wish to register the Lasting Power of Attorney immediately then a fee is payable to the Office of the Public Guardian.



Talk to one of our  
advisors to find out more:

02380 218000

[wills@ericrobinson.co.uk](mailto:wills@ericrobinson.co.uk)

[ericrobinson.co.uk](https://www.ericrobinson.co.uk)

